

Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

REMARKS

Claims 1 to 24 were pending in the application at the time of final examination. Claims 1 to 24 stand rejected as obvious.

Claims 1 to 4, 6, 8, 10, 12 to 18, 20, 22 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,097,418, hereinafter Nurse, in view of U.S. Patent No. 5,867,678, hereinafter Amro.

Applicants respectfully traverse the obviousness rejection of Claim 1. In the rejection of Claim 1, the Examiner first stated in part (all emphasis in original):

a). 'entering user inputted text data for said computer-readable document in a data file' as the present invention allows an ordinary word processing applications document to be extensively edited, including substantial resequencing of text, without the need to review all footnote/endnote insertions for the use of the correct form (col. 2, lines 18-23; col. 1, lines 41-51);

Col. 1, lines 41 to 51, which were paraphrased in this part of the rejection, stated:

Also, for ordinary word processing applications, the present invention has the advantage of allowing a document to be extensively edited, including substantial resequencing of text, without the need to review all footnote/endnote insertions for the use of the correct form.

This portion of Nurse teaches nothing concerning how the information is stored and provides information only concerning one advantage of the invention of Nurse with respect to eliminating the need to review footnotes after resequencing of text.

With respect to how information was stored, Nurse repeatedly taught:

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

. . . The CPU 31 accesses addressed memory 34 which contains . . . instructions for manipulation of that information in accordance with the operating sequences of the present invention. These sequences are directed toward developing a specific database 5 of information and linked source citation information under command of the processor 6 . . . (Emphasis added).

Nurse, Col. 3, lines 31 to 39.

Information is entered with an Editing Process 4, which encodes the information into a suitable format and places it into a storage area of Database 5, including the recording of the source of that information. (Emphasis added.)

Nurse, Col. 3, lines 50 to 54.

Once the information and source citations have been entered into the database 5, the user proceeds to invoke one or more of several format processes 6, which have been designated Formats A, B, and C in the diagram. (Emphasis added.)

Nurse, Col. 4, lines 4 to 8.

Once information and linked source citations have been entered into the database 5, reports 37 can be printed. As the printed report 37 is prepared by either format process A, B, or C, an element 48 is added to an array 47 in database 5 each time information is taken from database 5 that contains a citation to one of the designated sources 1, 2, or 3. (Emphasis added.)

Nurse, Col. 4, lines 54 to 60.

These quotations make several points clear. Nurse distinguishes between information and source citations. Both the information and the source citations are described as being stored in a database. The information is not described as being stored in a data file, but rather is encoded into a

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

suitable format and placed in a storage area of the database. The only storage for data and linked source documentation shown in the drawings of Nurse was database 5. Thus, Nurse unambiguously shows and describes that a database is used.

Despite the explicit and repetitious statements by Nurse that a database was used for storage, the rejection stated:

Nurse does not explicitly teaching storing the reference database, said user inputted text data, and other data of the computer-readable document in said data file. (Emphasis in original).

Applicants respectfully traverse this characterization of Nurse. As quoted above, Nurse taught that these items were stored in the database 5, which teaches away from storage in a data file. Therefore, the characterization of Nurse in this portion of the rejection as failing to explicitly teach where the various items are stored demonstrates that Nurse was not considered as a whole as required by the MPEP and ignores those teachings.

The rejection continues:

Amro, however, teaches 'storing the reference database, said user inputted text data, and other data of the computer-readable document is said data file' as a compound document contains multiple objects capable of running within the document, such as a spreadsheet (i.e., database), text, and hotlinks etc. . . (col. 4, lines 4-7 and Fig. 1). (Emphasis in original.)

In view of the fact that Nurse described the various items were stored in database 5, this portion of the rejection makes clear that the Examiner is relying upon Applicants' claim language and not any teaching or suggestion in Nurse for the breakdown of what is stored. The MPEP directs that this is an improper form of analysis, specifically:

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

MPEP §2142, 8th Ed., Rev. 2, pg. 2100-128 (May 2004).

Nurse, as quoted above, stored all the elements in a database. The rejection fails to site any suggestion or teaching in Nurse of storing the information and source citations in other than a database.

Moreover, the rejection characterizes a spreadsheet as a database. However, the rejection has failed to establish that the multiple different items stored in database 5 by Nurse could in fact be stored in a spreadsheet and manipulated as required by Nurse. The MPEP requires that after the proposed modification that the invention of Nurse still works for its intended purpose. (See MPEP § 2143.01 "THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE.") A conclusory statement comparing a spreadsheet to a database reduces the complex method of Nurse to a gist and fails to consider how the various flow diagrams of Nurse would be implemented using only a spreadsheet. There has been no showing that after reducing the database application of Nurse to a spreadsheet, Nurse would work for its intended purpose. Moreover, the rejection has failed to cite any teaching or suggestion in either reference for storing the information in the particular way cited in the rejection and relies solely upon quoting Applicants' claim language.

Also, the rejection has failed to cite any teaching in Amro on how a compound document is stored. The general

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

definition of a compound document that was cited in the rejection fails to indicate how or in what the objects making up the compound document are stored. The only description is the unsupported description in the rejection.

This is further evidence that the above quotation from the MPEP has not been followed and is also evidence that references have not been considered in their entireties as required by the MPEP. Specifically,

PRIOR ART MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY FROM THE CLAIMS

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.

MPEP § 2143.02, 8th Ed., Rev. 2, p. 2100-127, (May 2004).

As noted above, Nurse taught that a database was used and Amro failed to show how or in what the compound document was stored. The rejection requires a rearrangement of the teaching of Nurse and assumptions about how Amro would store a compound, which have not been supported by citation to any prior art reference.

This rearrangement of the teaching of the reference and the unsupported assumptions go against the explicit sequence of operations defined by Nurse and is further evidence as originally stated that neither the references nor Applicants' claim is being considered as a whole. Again, the MPEP directs:

FACT THAT REFERENCES CAN BE COMBINED OR MODIFIED IS NOT SUFFICIENT TO ESTABLISH PRIMA FACIE OBVIOUSNESS

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.

MPEP § 2143.01, 8th Ed., Rev. 2, p. 2100-131, (May 2004).

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

The Examiner again is reminded that the MPEP requires:

Office personnel must first determine the scope of a claim by thoroughly analyzing the language of the claim before determining if the claim complies with each statutory requirement for patentability. (Emphasis in original.)

MPEP § 2106 C., 8th Ed., Rev. 2, p 2100-7, (May 2004).

The MPEP further requires:

Office personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation. This is to be done in all cases, i.e., whether or not the claimed invention is defined using means or step plus function language. The correlation step will ensure that Office personnel correctly interpret each claim limitation.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. (Emphasis added.)

MPEP § 2106 C., 8th Ed., Rev. 2, p 2100-8, (May 2004). The above rejection demonstrates (i) that these requirements of the MPEP have not been followed with respect to claim interpretation because a data file is neither a database nor a compound document, as these terms are presented in the two cited references, and (ii) that explicit claim limitations have not been considered.

Finally, the basis for the motivation relies upon a reference that was not cited in the rejection. Specifically, the rejection stated:

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of the cited references because Amro's teaching would have allowed Nurse's to ensure that all reference related data is available for access by binding separate documents together can create a well

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

organized, coherent collection of information as suggested by Kanerva at col. 1, lines 15-18.

With all due respect, this motivation is further demonstration that Nurse was not considered as a whole. Nurse provided a way to "create a well organized, coherent collection of information," and in fact Nurse taught, as quoted above,

the present invention has the advantage of allowing a document to be extensively edited, including substantial resequencing of text, without the need to review all footnote/endnote insertions for the use of the correct form (Emphasis Added.)

Further,

. . . the present invention automates the citing of information sources by freeing the operator from the need to remember when a source has already been cited and, if it has been referred to more than once, what standard short form text to use. . . (Emphasis added.)

Nurse, Col. 2, Lines 24 to 28. These citations show that Nurse provided the motivation used in the rejection without any alterations. This alone is sufficient to establish that the motivation provided is not based upon the level of skill in the art as established by the two cited references.

The primary reference not only does not teach the desirability of the modification, but also the primary reference teaches away from the modification. The very motivation relied upon by the Examiner was the purpose of Nurse's system and so cannot provide a motivation to modify Nurse. Thus, according to the MPEP, a prima facie obviousness basis for the rejection has not been established.

In addition, the motivation is not based upon the two cited articles, but rather a reference that has been withdrawn from consideration based upon the new grounds of rejection. Further, Kanerva, the reference cited as justifying the

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

motivation, at the cited location is describing "separate paper documents." Binding of separate paper documents is unrelated to anything in either Nurse, Amro, or Applicant's invention as recited in Claim 1 and so provides no basis for the Examiner's conclusory comments concerning the motivation to combine Nurse and Amro.

In view of the rejection's failure to comply with multiple requirements set forth in the MPEP, the rejection fails to establish a prima facie obviousness rejection. Any one of the distinctions cited above is sufficient to overcome the obviousness rejection. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 1.

In the obviousness rejection of Claim 2, the rejection cited Fig. 2 of Nurse. Figure 2 is "a graphic representation of a frame which displays information about a citation in its first and second uses." Fig. 2 is not "a reference field for retrieving a record" in the computer-readable document as recited in Claim 2. This is further evidence that the claims have been reduced to a gist and that the prior art reference has not been considered as a whole. Also, Claim 2 depends from Claim 1 and distinguishes over the combination of references for at least the same reasons as Claim 1. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 2.

Claims 3 to 4, 6 and 8 depend from Claim 1 and distinguish over the combination of references for at least the same reasons as Claim 1. Applicants request reconsideration and withdrawal of the obviousness rejection of each of Claims 3 to 4, 6 and 8.

Claim 5 stands rejected as obvious in view of Nurse and Amro taken together with U.S. Patent No. 6,289,342 B1, hereinafter Lawrence. However, assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants note that by

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

making these assumptions Applicants do not concede that either of these facts is correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 1 and incorporated herein by reference.

Moreover, the cited tables in Lawrence are not describing a database, but rather are:

Tables 2 and 3 show the results with and without normalization respectively, and Table 4 shows the running time of the various algorithms.

Lawrence, Col. 14, lines 38 to 40.

Thus, is further evidence that Lawrence has not been considered as a whole and demonstrates that only "Number of Citations" was considered without consideration of the context in which the phase was used in Lawrence. Picking and selectively extracting portions of Tables in Lawrence summarizing test results and then arguing that the extracted test results teach anything concerning a reference database goes against all the above quotations from the MPEP. The characterization in the rejection is unsupported by any teaching in Lawrence and is just extracting terms in the claim from a reference without consideration to the teachings as a whole of the three references. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 5.

Claims 7, 9, 11, 21, and 24 stands rejected as obvious in view of Nurse and Amro taken together with U.S. Patent No 6,529,911, hereinafter referred to as Mielenhausen. Applicants respectfully traverse the obviousness rejection of Claim 7. Assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants note that by making these assumptions Applicants do not concede that either of these facts is

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 1 and incorporated herein by reference.

Again, information in a reference has been taken out of context and interpreted incorrectly. Nowhere, in the cited portions of Mielenhausen is synchronization mentioned, let alone the specific type of synchronization recited in Claim 7. In particular, Mielenhausen, Col. 8, line 67 to Col. 9, line 16 stated:

(g) Cases, statutes, legislative history, articles and other authorities can now be found at numerous web sites on the Internet, including web sites maintained by state and federal appellate courts and governmental agencies. After performing the word search highlighted in the Word Searches Window, via a web site, the user can enter, organize and analyze the results in LRO. Through LRO's Web Sites Search Results Window, the user can view, add, edit and delete citations obtained from the web site. The Search Results Window shows the web site name and address, jurisdictions searched, a list of citations, and other related data entered/edited by the user. The web site address is in hyper-link text (i.e., double-clicking on the data opens the web address indicated). Each citation is accompanied by the status of its review and the date the status was last updated. LRO orders the list of citations alphabetically. Only one citation at a time is highlighted. (Emphasis added)

Entering, organizing and analyzing results of a search fails to suggest anything concerning synchronizing a reference database with other data sources.

Similarly, Mielenhausen, Col. 10, lines 59 to 67 stated:

(a) Through LRO's Paste/View Insta-Cite.RTM. List Window and the Paste/View Auto-Cite.RTM. List Window, the user can paste a list of citations, downloaded from the Insta-Cite.RTM. and Auto-Cite.RTM. citator services, related to the authority highlighted in the Authorities Window. The user can then add one or more of those citations to the Insta-Cite.RTM. Search Results Window and

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

Auto-Cite.RTM. Search Results Window, along with data showing the status of the user's review of each citation.

Pasting citations and data showing status of the user's review again has nothing to do with synchronizing a reference database with other data sources. Similarly, the last citation is directed to a user entering and analyzing results. Applicants note that while the examiner is permitted to interpret claim limitations broadly, the MPEP puts specific bounds on such an interpretation. Specifically,

CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification."

MPEP § 2111 8th Ed. Rev. 2, p 2100-46 (May 2004).

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

MPEP § 2111 8th Ed. Rev. 2, p 2100-47 (May 2004).

**>Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art.

MPEP § 2111.01, II., 8th Ed. Rev. 2, p 2100-48 (May 2004).

Thus, Applicants respectfully submit that the interpretation used in the rejection of Claim 7 is neither related to Applicants' claim language nor related to the interpretation that would be used by those of skill in the art. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 7.

Applicants respectfully traverse the obviousness rejection of Claim 9. Assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants note that by making these

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Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

assumptions Applicants do not concede that either of these facts is correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 1 and incorporated herein by reference. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 9.

The obviousness rejection of Claim 10 relied upon the same information as discussed above for Claim 1. Claim 10 also includes language equivalent to that discussed above for Claim 1. Therefore, the above discussion of Claim 1 is applicable to Claim 10 and is incorporated herein by reference.

Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 10.

Claim 11 stands rejected on the same basis as Claim 7. Applicants respectfully traverse the obviousness rejection of Claim 11. Assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants note that by making these assumptions Applicants do not concede that either of these facts is correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 10 and incorporated herein by reference.

Moreover, the rejection of Claim 11 stated:

Mielenhausen, however, teaches wherein said 'processor is in a first device and said storage medium is in a second device' as online databases contains the processor which resides on a first device versus the storage medium of LRO on a second device (Col. 7, lines 34-41.) (Emphasis in original.)

Again, specific claim limitations have not been considered. It not just some processor and not some storage space recited in Claim 11. The correlation in the rejection

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

has nothing to do with the combination of Claims 10 and 11. The LRO of Mielenhausen is totally unrelated to anything in the primary references as are the databases accessed by Mielenhausen. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 11.

The obviousness rejection of Claim 12 relied upon the same information as discussed above for Claim 1. Claim 12 also includes language equivalent to that discussed above for Claim 1. Therefore, the above discussion of Claim 1 is applicable to Claim 12 and is incorporated herein by reference.

Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 12.

Claim 13 includes a limitation similar to Claim 2 described above and so the remarks with respect to Claim 2 are incorporated herein by reference. In addition, Claims 13 and 14 depend from Claim 12 and so distinguish over the combination of references for at least the same reasons as Claim 12. Applicants request reconsideration and withdrawal of the obviousness rejections of Claims 13 and 14.

The obviousness rejection of Claim 15 relied upon the same information as discussed above for Claim 1. Claim 15 also includes language equivalent to that discussed above for Claim 1. Therefore, the above discussion of Claim 1 is applicable to Claim 15 and is incorporated herein by reference.

Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 15.

Claims 16 to 18 and 20 stand rejected for the same reasons as Claim 15. Claim 16 includes a limitation similar to Claim 2 described above and so the remarks with respect to Claim 2 are incorporated herein by reference. In addition, Claims 16 to 18 and 20 depend from Claim 15 and so distinguish over the combination of references for at least the same reasons as Claim 15. Applicants request reconsideration and withdrawal of the obviousness rejections of each of Claims 16 to 18 and 20.

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Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

Claim 19 stands rejected for the same reasons as Claim 5. The above comments with respect to Claim 5 are applicable to Claim 19 and are incorporated herein by reference. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 19.

Claim 21 stands rejected for the same reasons as Claim 7. The comments with respect to Claim 7 are applicable to Claim 21 and are incorporated herein by reference. Also, assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants note that by making these assumptions Applicants do not concede that either of these facts is correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 15 and incorporated herein by reference. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 21.

The obviousness rejection of Claim 22 relied upon the same information as discussed above for Claim 1. Claim 22 also includes language equivalent to that discussed above for Claim 1. Therefore, the above discussion of Claim 1 is applicable to Claim 22 and is incorporated herein by reference. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 22.

Claim 23 was rejected for the same reasons as Claim 22. Claim 23 depends from Claim 22 and so distinguishes over the combination of references for at least the same reasons as Claim 22. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 23.

Claim 24 stands rejected for the same reasons as Claim 7. The comments with respect to Claim 7 are applicable to Claim 24 and are incorporated herein by reference. Also, assuming that the combination of the three references is correct and that the interpretation of the three references is correct (Applicants

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Appl. No. 09/728,783

Amdt. dated June 21, 2005

Reply to Final Office Action of March 23, 2005

AFTER FINAL EXPEDITED PROCEDURE

note that by making these assumptions Applicants do not concede that either of these facts is correct), the additional information from the third reference does not correct the deficiencies of the two primary references as noted above with respect to Claim 22 and incorporated herein by reference. Applicants request reconsideration and withdrawal of the obviousness rejection of Claim 24.

Claims 1 to 24 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

Respectfully submitted,

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. (703).872-9306, on June 21, 2005.

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